IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ADMIRALTY & VICE ADMIRALTY JURISDICTION

NOTICE OF MOTION NO.1771 OF 2006

IN

ADMIRALTY SUIT NO.9 OF 2006.

Vitol S.A. ...Plaintiff.

vs.

M.T.Rashleigh & another. ...Defendants.

And

Kiran Shipbreaking Co.Ltd. ...Respondents.

Mr.V.R.Dhond with Ashish Kamat i/b. M/s.Crawford Bayley & Co. for Plaintiff.

Mr.P.S.Pratap, for Defendants.

Mr.V.R.Rambhadran, for Respondents.

CORAM: D.K.DESHMUKH,J.

DATED: 13th June, 2006.

P.C.:-

1. This notice of motion is taken out by the

plaintiff. By this Notice of Motion, principally the plaintiff is seeking direction against the respondent, who is presently in possession of first defendant vessel, to permit the plaintiff and his expert to inspect the condition of the vessel. This notice of motion is opposed by the defendant as also by the respondent. In my opinion, the purpose of inspection of the vessel is collection of evidence in relation to the suit claim. Whether that evidence is relevant or irrelevant are all the questions to be decided as and when that evidence is tendered in the suit. But if there is possibility that that evidence may be relevant then, in my opinion, it should be permitted to be collected because if it is not permitted to be collected in that case, it will be permanently lost because admittedly the vessel is being broken. In this view of the matter therefore, and in view of the statement made by the learned Counsel appearing for the plaintiff, in my opinion, the following order would meet the ends of justice:-

(i) In case the representative of the plaintiff comes to the vessel alongwith the expert on 15.6.2006

at 11 a.m., the respondent shall permit the representative of the plaintiff and the expert accompanying him to inspect the vessel. The respondent shall permit them to carry on inspection for a period of 24 hours and not more.

The notice of motion is disposed of.